

REMARKS

Claims 1-4, 12-14, 18-21, 24-68 and 71-84 are pending. Applicant hereby amends claims 1, 21, 59, 70, 80 – 81 and 83. Also, claims 3-4, 19, 27-54, and 57-58 were previously withdrawn and claims 5-11, 15-17, 22-23, 27-34 and 69-70 were previously cancelled.

The Examiner indicated that dependent claims 12-14 would be allowable if rewritten in independent form. The Applicant thanks the Examiner for favorable consideration of these claims.

The Examiner has rejected claims 21, 24, 25, and 81 under 35 U.S.C. 102(b) as being anticipated by Tranin (U.S. Pat. No. 1,727,493) . The Examiner has also rejected claims 21, 24-26, and 81 under 35 U.S.C. 103(a) as being unpatentable over Tranin. The Examiner has also rejected claims 1, 2, 12, 13 and 80 under 35 U.S.C. 103(a) as being unpatentable over Tranin taken together with Stearns et al. (U.S. Pat. No. 3,958,035). The Examiner has also rejected claims 18, 20, 59-68, 71-72, 75-79, 83 and 84 under 35 U.S.C. 103(a) as being unpatentable over either Tranin taken together with Stearns et al. and Shimizu (U.S. Pat. No.4,961,946) or Tranin taken together with Stearns et al., Shimizu, and either one or Davis (U.S. Pat. No.5,293,021) or Glasser et al. (U.S. Pat. No. 3,941,892). The Examiner has also rejected claims 55, 56 and 82 under 35 U.S.C. 103 (a) as being unpatentable over Dunckel (U.S. Pat. No. 5,427,016) in view of any one of Davis, Glasser et al, and Shimizu. Finally, the Examiner has rejected claim 74 under 35 U.S.C. as being unpatentable over either Tranin taken together with Stearns et al., and Beale et al., or Tranin taken together with Stearns et al., Shimizu, Beale et al., and either one of Davis or Glasser et al.

Applicant respectfully traverses these rejections and request reconsideration in view of the following remarks.

The Applicant traverses these rejections on the grounds that the cited reference or references do not show all of the limitations of the amended claims. “For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference.” In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990) “Anticipation under 35 U.S.C. § 102 (b) requires the presence in a single prior art disclosure of each and every element of a claimed invention...” Electro Medical Systems, S.A. v. Cooper Life Sciences, Inc., 34 F.3d 1048, 32 U.S.P.Q.2d 1017, 1019 (Fed. Cir. 1994) “[O]ne who seeks such a finding must show that each element of the Claim in issue is found, either

expressly or under principles of inherency, in a single prior art reference, or that the claimed invention was previously known or embodied a single prior art device or practice.” *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopedics, Inc.*, 976 F.2d 1559, 24 U.S.P.Q.2d 1321, 1326 (Fed. Cir. 1992).

Furthermore, “[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Therefore, similar to meeting the burden required pursuant to 35 U.S.C. § 102 as described above, the Examiner, in order to meet the burden of a rejection pursuant to 35 U.S.C. § 103(a), must provide a showing that the references cited provide all of the limitations of the claims.

The Examiner has rejected claims 1, 2, 12, 13, 18, 20, 21, 24-26, 59-68, 71-72, 74-79, 80, 81, 83 and 84 as either anticipated by Tranin or as made obvious by Tranin in combination with one or more other references as listed above. The Applicant traverses these rejections. However, to further the application to allowance, independent claims 1, 21, 59 and 70 have each been amended to call for each mold to receive only one egg. Tranin does not teach this limitation, nor could Tranin, in combination with any of the cited references, meet this limitation.

The Examiner has cited Tranin as teaching a process of breaking egg yolks by dropping an egg into a device having many depressions made up of a plurality of segments having sharp edges to rupture the yolk sac. However, the Examiner has also stated that neither Tranin nor the other references teaches individually breaking eggs and separately depositing them into individual molds. Further, the Examiner has noted that Tranin teaches away from this by mixing the eggs together after breaking them. See the Office Action of April 15, 2009, at page 8, section 12.

The Applicant agrees with the Examiner that Tranin teaches passing multiple eggs together through a device that breaks the egg yolks and then mixes them. Independent claims 1, 21, 59, and 70 each call for, among other things, dropping a single egg through a depression including a plurality of segments having sharp edges and/or pointed portions to rupture the yolk sac and depositing the egg into a mold, with each mold receiving only one egg. Tranin does not teach this limitation, nor can Tranin be combined with any of the cited references to meet this

limitation. Therefore, each of claims 1, 21, 59 and 70, and all of the claims depending on these claims, are neither anticipated nor made obvious by Tranin, either alone or in combination with the other cited references.

Claims 55 and 56 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Dunckel taken together with any one of Davis, Glasser et al., and Shimizu. Applicant traverses this rejection. None of the references, alone or in combination, teach a mold that includes: (a) a first depression that has a sloped region extending downward to a planed region, and (b) a second depression, located within the first depression, which has a sloped region extending downward to a rounded region, as called for in the claims. At most, the references teach a single depression containing a recessed portion or cavity.

Dunckel does not teach mold shapes and/or structures that are identical or equivalent to the molds claimed in the present application. Shimizu includes only one depression and a recessed portion 13c within that depression. See Figure 3 of the Shimizu reference. Hence the mold disclosed or suggested in Shimizu does not have the structure to produce a natural-appearing fried egg as produced when using the mold of the present application. Davis teaches a container having an egg-white retention portion that encircles a central yolk retention portion, with the two portions separated by a projection. The egg-white retention portion and the yolk retention portion of Davis are either co-planar (Figs. 1 – 3 and 5 – 8) or the egg-white retention portion is slightly elevated relative to the yolk retention portion (Fig. 4, col. 4, ll. 52-56). Glasser teaches a mold that includes a flat body portion and an egg yolk cavity. Like Shimizu, Glasser teaches a single depression having an egg-yolk cavity within the single depression. None of the references teach the claim limitations of (a) a first depression that has a sloped region extending downward to a planed region, and (b) a second depression, located within the first depression, which has a sloped region extending downward to a rounded region, and therefore the claims are not obvious.

By providing a mold that includes a first depression that has a sloped region extending downward to a planed region, and a second depression, located within the first depression, that has a sloped region extending downward to a rounded region, the resultant egg product varies in thickness and appears more like a fried egg. In addition to varying in thickness, the yolk may be deposited into the second depression including the rounded region, resulting in an egg-yolk portion that is prominently displayed in order to more closely resemble a fried egg. The prior art

does not teach or suggest a mold structure that would vary the thickness of the product or the prominence of the egg yolk.

In view of the failure of the cited references to disclose or suggest all of the limitations of the claims, the Applicants respectfully request that the Examiner withdraw the rejections of the above-identified claims. It is further submitted that this application is in condition for allowance and therefore, favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

/John F. Dolan/

John F. Dolan
Registration No. 45,382

Customer No. 22859
FREDRIKSON & BYRON, PA
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota 55402-1425
Telephone: (612) 492-7000
Facsimile: (612) 492-7077

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 06-1910.